



January 30, 2004

SENATE BILL No. 363

DIGEST OF SB 363 (Updated January 28, 2004 3:01 pm - DI 87)

Citations Affected: IC 4-23; noncode.

Synopsis: Council for people with disabilities. Creates the governor's council for people with disabilities and the board of directors of the council to implement the federal Developmental Disabilities Assistance and Bill of Rights act. (The council and board of directors are currently created by executive order.)

Effective: July 1, 2004.

Jackman

January 12, 2004, read first time and referred to Committee on Governmental Affairs and Interstate Cooperation.
January 29, 2004, amended, reported favorably — Do Pass.

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SB 363—LS 7184/DI 14+



January 30, 2004

Second Regular Session 113th General Assembly (2004)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2003 Regular Session of the General Assembly.

SENATE BILL No. 363

A BILL FOR AN ACT to amend the Indiana Code concerning human services.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 4-23-29 IS ADDED TO THE INDIANA CODE AS
2 A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY
3 1, 2004]:

4 **Chapter 29. Governor's Council for People with Disabilities**

5 **Sec. 1. As used in this chapter, "act" refers to the federal**
6 **Developmental Disabilities Assistance and Bill of Rights Act (42**
7 **U.S.C. 6024) and subsequent amendments.**

8 **Sec. 2. As used in this chapter, "board" refers to the board of**
9 **directors of the council.**

10 **Sec. 3. As used in this chapter, "council" refers to the**
11 **governor's council for people with disabilities established by**
12 **section 7 of this chapter.**

13 **Sec. 4. (a) As used in this chapter, for an individual who is at**
14 **least five (5) years of age, "developmental disability" means a**
15 **severe, chronic disability that:**

16 **(1) is attributable to a mental or physical impairment or**
17 **combination of mental and physical impairments;**

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(2) is manifested before the individual is twenty-two (22) years of age;

(3) is likely to continue indefinitely;

(4) results in substantial functional limitation in three (3) or more areas of major life activity; and

(5) reflects the individual's need for special, interdisciplinary services, supports, or assistance that are of lifelong or extended duration and are individually planned and coordinated.

(b) As used in this chapter, for an individual less than five (5) years of age, "developmental disability" means:

(1) substantial developmental delay; or

(2) specific congenital or acquired conditions;

with high probability of resulting in a developmental disability described in subsection (a) if services are not provided.

Sec. 5. As used in this chapter, "disability" means a physical or mental impairment that substantially limits one (1) or more major life activities.

Sec. 6. As used in this chapter, "major life activity" includes the following:

(1) Self-care.

(2) Receptive and expressive language.

(3) Learning.

(4) Mobility.

(5) Self-direction.

(6) Capacity for independent living.

(7) Economic self-sufficiency.

Sec. 7. The governor's council for people with disabilities is established to:

(1) implement the act;

(2) implement the policies established by the board; and

(3) receive grants from:

(A) the federal government;

(B) philanthropic foundations; and

(C) private sources.

Sec. 8. (a) The board of directors of the council is established.

(b) The following ex officio members are nonvoting members of the board:

(1) The state superintendent of public instruction or the superintendent's designee.

(2) The secretary of family and social services or the secretary's designee.

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(3) The commissioner of the state department of health or the commissioner's designee.

(c) The following ex officio members are voting members of the board:

(1) The executive director of the Indiana protection and advocacy services commission.

(2) The executive director of the university center for excellence as designated under the act.

(d) The governor shall appoint the following fifteen (15) members to the board for terms of three (3) years or until a successor is appointed:

(1) Three (3) individuals with developmental disabilities.

(2) Three (3) individuals who are:

(A) parents of children with developmental disabilities; or

(B) immediate relatives or guardians of adults with developmental disabilities.

(3) Two (2) individuals who may be:

(A) individuals with developmental disabilities; or

(B) parents, immediate relatives, or guardians of individuals with developmental disabilities.

(4) One (1) individual who is institutionalized or was previously institutionalized or the parent, immediate relative, or guardian of an individual who is institutionalized or was previously institutionalized.

(5) Two (2) individuals with disabilities representing local community or statewide organizations whose stated mission includes fostering the productivity, inclusion, and independence of people with developmental disabilities.

(6) Two (2) individuals who represent:

(A) the community; or

(B) a business that has demonstrated a commitment to implementing the federal Americans with Disabilities Act (42 U.S.C. 1201 et seq.)

(7) Two (2) individuals who represent providers of services to persons with disabilities, including the following:

(A) Special education programs.

(B) Independent living centers.

(C) Community based programs.

(D) Health care.

(E) Preschool, early intervention programs, or area agencies on aging.

(e) Of the individuals initially appointed by the governor, at

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1 least seven (7) must be chosen from names submitted by the council
2 for consideration.

3 (f) Individuals appointed by the governor under subsection
4 (d)(1) through (d)(5) serve at the pleasure of the governor and must
5 have demonstrated an active involvement in the development of
6 disability policy by:

7 (1) serving on boards or commissions; or

8 (2) advocating;

9 on behalf of persons with disabilities.

10 (g) A member may not serve more than two (2) consecutive
11 three (3) year terms. The governor shall make appointments not
12 later than October 1 of each year.

13 (h) Each member of the board who is not a state employee is
14 entitled to the minimum salary per diem provided by
15 IC 4-10-11-2.1(b). Members are also entitled to reimbursement for
16 traveling expenses as provided under IC 4-13-1-4 and other
17 expenses actually incurred in connection with the member's duties
18 as provided in the state policies and procedures established by the
19 Indiana department of administration and approved by the budget
20 agency.

21 (i) The governor shall appoint a chairperson of the board, who
22 has at least one (1) year of experience as a board member, from
23 among the members appointed by the governor.

24 (j) The board shall adopt policies and procedures to carry out
25 the board's duties under:

26 (1) the act; and

27 (2) this chapter.

28 (k) The affirmative votes of a majority of the voting members
29 appointed to the board are required for the board to take action on
30 any measure.

31 Sec. 9. The council may enter into contracts in accordance with
32 IC 5-22.

33 Sec. 10. (a) The council shall develop and implement a five (5)
34 year plan adopted by the board for persons with disabilities that
35 meets the requirements of the act and this chapter.

36 (b) The council shall be funded with federal funds received.

37 (c) The council shall administer funds received from the
38 following:

39 (1) Grants.

40 (2) Contracts.

41 (3) Interagency agreements.

42 (d) The council shall finance and implement programs, projects,

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and activities required under the five (5) year plan adopted by the board, including the following:

- (1) Conducting hearings and forums that the council determines necessary to carry out the duties of the council.
- (2) Conducting at least four (4) business meetings per calendar year.
- (3) Hiring, supervising, and evaluating an executive director.
- (4) Maintaining sufficient staff, supervised by the executive director, to carry out the duties of the council.
- (5) Entering into contracts for services to carry out the council's functions.

Sec. 11. (a) The council shall advocate on behalf of persons with disabilities by providing information and advice to:

- (1) state and local officials;
- (2) the governor;
- (3) the general assembly; and
- (4) the United States Congress.

(b) The council shall promote private and public sector partnerships to advance:

- (1) the act;
- (2) the federal Americans with Disabilities Act;
- (3) the federal Fair Housing Act; and
- (4) other legislation that protects and benefits persons with disabilities and families of individuals with disabilities.

(c) The council shall provide leadership in the development, adoption, and implementation of public policy to create partnerships between the public and private sector to advance the goals of:

- (1) independence;
- (2) community inclusion;
- (3) productivity; and
- (4) integration;

of people with disabilities in all aspects of society.

(d) The council is designated as the single state agency to administer the act.

SECTION 2. [EFFECTIVE JULY 1, 2004] (a) Notwithstanding IC 4-23-29-8, as added by this act, an individual who, before July 1, 2004, serves as a member of the board of directors of the governor's council for people with disabilities shall finish the term to which the individual was appointed under executive order EO 03-23.

(b) When the term of an individual described in subsection (a)

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1 expires, the governor shall appoint a member under IC 4-23-29, as
2 added by this act.

3 (c) The provisions of IC 4-23-29-8(g), as added by this act,
4 concerning a limit of two (2) consecutive terms apply to an
5 individual who is serving on July 1, 2004, as a member of the board
6 of directors of the governor's council for people with disabilities
7 and who is eligible for reappointment under IC 4-23-29-8, as added
8 by this act.

9 (d) This SECTION expires December 31, 2006.

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COMMITTEE REPORT

Madam President: The Senate Committee on Governmental Affairs and Interstate Cooperation, to which was referred Senate Bill No. 363, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 2, line 31, after "board;" insert "**and**".

Page 2, line 35, delete "sources; and" and insert "**sources**".

Page 2, delete line 36.

Page 3, line 36, delete "developmental".

Page 4, line 3, delete "nine (9)" and insert "**seven (7)**".

Page 4, line 6, after "(d)(5)" insert "**serve at the pleasure of the governor and**".

Page 4, line 11, after "consecutive" insert "**three (3) year**".

Page 4, between lines 28 and 29, begin a new paragraph and insert:

"(k) The affirmative votes of a majority of the voting members appointed to the board are required for the board to take action on any measure."

Page 4, line 35, delete "under the act".

and when so amended that said bill do pass.

(Reference is to SB 363 as introduced.)

RIEGSECKER, Chairperson

Committee Vote: Yeas 6, Nays 0.

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